

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

KENERGY CORP	)	
_____	)	CASE NO.
	)	2009-00430
ALLEGED FAILURE TO COMPLY WITH	)	
KRS 278.042	)	

O R D E R

By Order dated December 8, 2009, the Commission directed Kenergy Corp ("Kenergy") to show cause why it should not be subject to the penalties provided under KRS 278.990 for violations of KRS 278.042, which requires an electric utility to construct and maintain its plant and facilities in accordance with the most recent edition of the National Electrical Safety Code ("NESC"), which is the 2007 edition. The eight alleged violations cited in the Commission's December 8, 2009 Order are as follows:

1. NESC Section 41, 411-A-3: Employees shall be instructed as to the character of the equipment or lines and methods to be used before any work is undertaken thereon.
2. NESC Section 42, 420-C-4: Employees who work on or in the vicinity of energized lines shall consider all of the effects of their actions, taking into account their own safety as well as the safety of other employees on the job site, or on some other part of the affected electric system, the property of others, and the public in general.
3. NESC Section 42, 420-H: Employees shall use the personal protective equipment, the protective devices, and the special tools provided for their work. Before starting work, these devices and tools shall be carefully inspected to make sure that they are in good condition.

4. NESC Section 42, 420-K-1: At elevated locations above 3 m (10 ft), climbers shall be attached to equipment or structures by a fall protection system while at the worksite, at a rest site, in aerial devices, helicopters, cable carts, and a boatswain's chair.
5. NESC Section 42, 421-A-1 and 2: A First-Level Supervisor or Person in Charge shall: 1. Adopt such precautions as are within the individual's authority to prevent accidents and 2. See that the safety rules and operating procedures are observed by the employees under the direction of this individual.
6. NESC Section 44, 441-A-1: Employees shall not approach or bring any conductive object within the minimum approach distance listed in Table 441-1 or Table 441-4 to exposed parts unless one of the following is met:
  - a. The line or part is de-energized and grounded per Rule 444D;
  - b. The employee is insulated from the energized line or part. Electrical protective equipment insulated for the voltage involved, such as tools, gloves, rubber gloves, or rubber gloves with sleeves, shall be considered effective insulation for the employee from the energized part being worked on; or
  - c. The energized line or part is insulated from the employee and from any other line or part at a different voltage.
7. NESC Section 44, 444-D: When all the switches and disconnectors designated have been operated, rendered inoperable where practical, and tagged in accordance with Rule 444C, and the employee has been given permission to work by the designated person, the employee in charge should immediately proceed to make the employees own protective grounds or verify that adequate grounds have been applied (see Rule 445) on the disconnected lines or equipment. During the testing for potential and/or application of grounds, distances not less than those shown in Table 441-1, Table 441-2, and Table 441-3 , as applicable, shall be maintained.

Grounds shall be placed at each side of the work location and as close as practical to the work location, or a worksite ground shall be placed at the work location. If work is to be performed at more than one location on a line section, the line section shall be grounded and short-circuited at one location in the line section and the conductor to be worked on shall be grounded at each work location.

The distance in Table 441-1, Table 441-2 , or Table 441-3 , as applicable, shall be maintained from ungrounded conductors at the

work location. Where the making of a ground is impractical, or the conditions resulting therefrom are more hazardous than working on the lines or equipment without grounding, the ground may be omitted by special permission of the designated person.

8. NESC Section 44, 445-A-3: The previously energized parts that are to be grounded shall be tested for voltage except where previously installed grounds are clearly in evidence. The employee shall keep every part of the body at the required distance by using insulating handles of proper length or other suitable devices.

The December 8, 2009 show cause Order also cited 11 probable violations of 807 KAR 5:006, Section 24(1), which requires each jurisdictional utility to adopt and execute a safety program, including the establishment of a safety manual with written guidelines for safe working practices and procedures to be followed by utility workers. The alleged violations occurred under the requirements of the American Public Power Association (APPA Safety Manual 13th Edition), which was adopted by the Kenergy Board of Directors on March 8, 2005. The 11 alleged violations cited in the Commission's December 8, 2009 Order are as follows:

1. 607(a): All conductors and equipment shall be treated as energized until tested and grounded.
2. 615(a): All previously energized conductors shall be considered energized until tested and grounded.
3. 601(j): Electrical equipment and lines shall always be considered "live" unless they are positively known to be dead by testing and grounding. Before starting work, preliminary inspection or testing shall be made to determine what conditions exist. Care shall be exercised to handle neutral wire with the same caution that is used with energized wires.
4. 626(a)(2): All switches, disconnectors, jumpers, taps, and other means through which sources of electric energy may be supplied to the particular lines and equipment to be de-energized shall be opened. Such means shall be rendered inoperable, unless its design does not so permit, and tagged to indicate that employees are at work.

5. 626(a)(5): After the above steps have been taken, the equipment to be worked shall be tested to ensure it is de-energized.
6. 626(a)(6): Protective grounds shall be installed (refer to OSHA standard 29 CFR 1910.269(n)).
7. 312(k): Employees shall not belt to an adjacent pole or structure. When working from an aerial lift, a body belt or harness shall be worn and a lanyard attached to the boom, basket or other acceptable attachment point.
8. 601(e): No employee may approach or take any conductive object without an insulating handle closer to exposed energized parts than the minimum approach distance set forth in Table 6.1 through 6.5 unless the employee is insulated from the energized part or the energized part is insulated from the employee and any other conductive object at a different potential, or the employee is insulated from any other conductive object, as during live-line bare-hand work. Refer to paragraph 602, 606, 609, and 906 for related information. Refer to OSHA Standard 29 CFR 1910.137.<sup>1</sup>
9. 601(l): Employees must evaluate existing conditions that relate to the safety of the work to be performed before work is started.
10. 1405(a): The employee in charge shall conduct a job briefing with the employees involved before the start of each job. The job briefing will at least cover the following subjects: hazards associated with the job, work procedures involved, special precautions, energy source controls, and personal protective equipment requirements.
11. Kenergy's Amendments to the APPA Safety Manual: C-1-c: When working on lines or equipment energized above 600 volts from an aerial device, rubber gloves and sleeves shall be worn from cradle to cradle.

The violations cited in the Commission's December 8, 2009 Order arose from a February 27, 2009 incident on Brasher Lane near Kuttawa, Kentucky, within Lyon County, Kentucky, wherein Donnie Hunt, an employee of Kenergy, sustained burn injuries while working on the site of a Kenergy electric construction project.

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<sup>1</sup> Table 6.1 Phase to ground- 7.2 kW-2'2" Clearance.

Kenergy submitted an answer to the Commission's show cause Order and a request for an informal conference on December 23, 2009. The informal conference was held at the Commission's offices on January 27, 2010. The discussions at the informal conference led to the filing of a Joint Stipulation of Facts and Settlement Agreement (collectively referred to as "Settlement Agreement"). The Settlement Agreement, attached hereto as the Appendix and incorporated herein by reference, sets forth Kenergy's agreement with the statement of facts contained in the Commission Staff's Electric Utility Personal Injury Accident Report ("Report") dated March 27, 2009. The Report was appended to the Commission's December 8, 2009 show cause Order. The Settlement Agreement also discusses the remedial actions to be taken by Kenergy and a civil penalty in the amount of \$6,500.00 that Kenergy will pay in full satisfaction of this proceeding.

In determining whether the terms of the Settlement Agreement are in the public interest and are reasonable, the Commission has taken into consideration the comprehensive nature of the Settlement Agreement, Kenergy's willingness to implement job briefing documentation methods for its crews, Kenergy's willingness to implement regular safety audits for its work crews, and Kenergy's cooperation in achieving a resolution of this proceeding.

Based on the evidence of the record and being otherwise sufficiently advised, the Commission finds that the Settlement Agreement is in accordance with the law and does not violate any regulatory principle. The Settlement Agreement is a product of arm's-length negotiations among capable, knowledgeable parties, is in the public interest, and results in a reasonable resolution of all issues in this case.

IT IS THEREFORE ORDERED that:

1. The Joint Stipulation of Facts and Settlement Agreement is adopted and approved in its entirety as a complete resolution of all issues in this case.

2. Kenergy shall pay \$6,500.00 as a civil penalty within 30 days of the date of this Order by cashier's check or money order payable to the Kentucky State Treasurer and mailed or delivered to the Office of General Counsel, Kentucky Public Service Commission, 211 Sower Boulevard, Post Office Box 615, Frankfort, Kentucky 40602.

3. Beginning with the first full calendar month following the date of entry of this Order, each month Kenergy shall perform one safety audit of each Kenergy construction crew working in the vicinity of energized Kenergy facilities.

a. Kenergy shall document each safety audit in writing, using the standardized checklist developed by Kenergy for such purpose, a copy of which is attached as an Appendix to the Settlement Agreement.

b. For a period of 12 months following the institution of the monthly safety audits described in this paragraph, on or before the tenth day of each following month, Kenergy shall file with the Commission a copy of all safety audit checklists completed during the prior month, along with a brief summary report indicating any safety violations identified during the safety audits and any safety measures that Kenergy has undertaken to correct those violations.

4. Following the twelfth monthly safety audit pursuant to ordering paragraph 3 above, Kenergy may revise its Kenergy construction crew safety audit schedule to perform one safety audit of each Kenergy construction crew working in the vicinity of energized Kenergy facilities every three months.

5. Kenergy shall maintain all safety audit checklists for a period of at least two years and shall provide the safety audit checklists to Commission inspectors upon request and during the inspectors' periodic inspections.

6. Kenergy shall ensure that all Kenergy construction crews working in the vicinity of energized Kenergy facilities make written documentation of each daily job briefing.

a. Kenergy shall not file copies of daily job briefing documentation with the Commission unless the Commission requires Kenergy to do so in a subsequent Order.

b. Filings may be required by Order of the Commission during the period of time that Kenergy is required to file safety audit checklists under ordering paragraph 3 above.

c. Thereafter, the written documentation shall be maintained and provided upon request under the same terms as applicable to safety audit checklists under ordering paragraph 5 above.

7. Upon payment of the \$6,500.00 civil penalty, this case shall be closed and removed from the Commission's docket without further Order of the Commission.

8. Any documents filed in the future pursuant to ordering paragraphs 3 and 4 herein shall reference this case number and shall be retained in the utility's general correspondence file.

By the Commission

ENTERED *M*  
SEP - 1 2010  
KENTUCKY PUBLIC  
SERVICE COMMISSION

ATTEST

  
\_\_\_\_\_  
Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2009-00430 DATED SEP - 1 2010

RECEIVED

JUL 28 2010

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

PUBLIC SERVICE  
COMMISSION

In the Matter of:

KENERGY CORP.	)	
_____	)	CASE NO. 2009-00430
	)	
ALLEGED FAILURE TO COMPLY	)	
WITH KRS 278.042	)	

**STIPULATION OF FACTS AND SETTLEMENT AGREEMENT**

This agreement is formally known as a Stipulation of Facts and Settlement Agreement ("Settlement Agreement"). The parties to this Settlement Agreement are Kenergy Corp. ("Kenergy") and Staff of the Kentucky Public Service Commission ("Commission Staff"). It is the intent and purpose of the parties hereto to express their agreement on a mutually satisfactory resolution of all of the issues in the proceeding.

It is understood by the parties that this Settlement Agreement is not binding upon the Public Service Commission ("Commission"). The Commission must independently approve and adopt this Settlement Agreement before this matter can be deemed concluded and removed from the Commission's docket. The parties have expended considerable efforts to reach a stipulation as to the facts of this matter, as well as in developing a proposal for settlement. Kenergy and Commission Staff agree that this Settlement Agreement, viewed in its entirety, constitutes a reasonable resolution of all issues in this proceeding.

In addition, the adoption of this Settlement Agreement will eliminate the need for the Commission, Commission Staff, and Kenergy to expend significant resources in

litigating this proceeding and will eliminate the possibility of, and any need for, rehearing or appeals of the Commission's final Order.

### FACTS

Kenergy and the Commission Staff submit this stipulation of facts for the Commission's consideration in rendering a decision in this proceeding. Commission Staff developed and submitted to the Commission an Electric Utility Personal Injury Accident Report ("Report") on this matter dated March 27, 2009. The Report describes an incident which occurred on February 27, 2009, on Brasher Lane, near Kuttawa, Kentucky, within Lyon County, in which Donnie Hunt, an employee of Kenergy, sustained burn injuries while working on a Kenergy electric construction project. Kenergy and Commission Staff agree that the Report fairly and accurately describes the events which occurred on the day of the February 27, 2009 incident.

According to the Report on the day of the accident Mr. Hunt was working with Billy Joe Parker, another Kenergy employee, as part of a two-man construction crew. Mr. Hunt and Mr. Parker were changing a utility pole on a single-phase 7200 volt tap line. Mr. Hunt was the foreman and the person in charge at the job site that day. Prior to beginning the change-out of the old utility pole for the new utility pole, Mr. Hunt tried to de-energized the tap line on which they would be working. Mr. Parker stayed at the work site preparing to set the pole.

When Mr. Hunt got to the location to de-energize the tap line, he proceeded to open the cutout with an "extendo" stick while standing on the ground. However, Mr. Hunt failed to realize that the cutout he opened was feeding a transformer on the three-

phase takeoff pole. The tap line was still energized due to a jumper with a hot line clamp connecting it to the main line three-phase circuit.

Believing that he had de-energized the tap line, Mr. Hunt returned to the worksite and began work to remove a transformer from the pole that they were replacing. The crew members failed to test and ground the tap line before proceeding to work on the tap line as if it were de-energized. While performing this task Mr. Hunt contacted an energized conductor causing the shock and burn accident. Furthermore, according to statements made by both Mr. Hunt and Mr. Parker, Mr. Hunt failed to wear his safety harness while in the aerial lift device in which he was working.

Mr. Hunt was transported by ambulance to Western Baptist Hospital in Paducah, Kentucky where he was evaluated. Later that day, Mr. Hunt was transported to the Vanderbilt Hospital Burn Center in Nashville, Tennessee. He received treatment and was released the following day, February 28, 2009.

#### Show Cause Order

By a Show Cause Order dated, December 8, 2009, the Commission initiated this proceeding to determine whether Kenergy should be subject to the penalties prescribed in KRS 278.990 for eight probable violations of KRS 278.042, which requires an electric utility to construct and maintain its plant and facilities in accordance with the 2007 edition of the NESC. The eight alleged violations cited in the Commission's December 8, 2009 Order are as follows:

1. NESC Section 41, 411-A-3: Employees shall be instructed as to the character of the equipment or lines and methods to be used before any work is undertaken thereon.
2. NESC Section 42, 420-C-4: Employees who work on or in the vicinity of energized lines shall consider all of the effects of their actions, taking into

account their own safety as well as the safety of other employees on the job site, or on some other part of the affected electric system, the property of others, and the public in general.

3. NESC Section 42, 420-H: Employees shall use the personal protective equipment, the protective devices, and the special tools provided for their work. Before starting work, these devices and tools shall be carefully inspected to make sure that they are in good condition.
4. NESC Section 42, 420-K-1: At elevated locations above 3 m (10 ft), climbers shall be attached to equipment or structures by a fall protection system while at the worksite, at a rest site, in aerial devices, helicopters, cable carts, and a boatswain's chair.
5. NESC Section 42, 421-A-1 and 2: A First-Level Supervisor or Person in Charge shall: 1. Adopt such precautions as are within the individual's authority to prevent accidents and 2. See that the safety rules and operating procedures are observed by the employees under the direction of this individual.
6. NESC Section 44, 441-A-1: Employees shall not approach or bring any conductive object within the minimum approach distance listed in Table 441-1 or Table 441-4 to exposed parts unless one of the following is met:
  - a. The line or part is de-energized and grounded per Rule 444D;
  - b. The employee is insulated from the energized line or part. Electrical protective equipment insulated for the voltage involved, such as tools, gloves, rubber gloves, or rubber gloves with sleeves, shall be considered effective insulation for the employee from the energized part being worked on; or
  - c. The energized line or part is insulated from the employee and from any other line or part at a different voltage.
7. NESC Section 44, 444-D: When all the switches and disconnectors designated have been operated, rendered inoperable where practical, and tagged in accordance with Rule 444C, and the employee has been given permission to work by the designated person, the employee in charge should immediately proceed to make the employees own protective grounds or verify that adequate grounds have been applied (see Rule 445) on the disconnected lines or equipment. During the testing for potential and/or application of grounds, distances not less than those shown in Table 441-1, Table 441-2, and Table 441-3 , as applicable, shall be maintained.

Grounds shall be placed at each side of the work location and as close as practical to the work location, or a worksite ground shall be placed at the work location. If work is to be performed at more than one location on a

line section, the line section shall be grounded and short-circuited at one location in the line section and the conductor to be worked on shall be grounded at each work location.

The distance in Table 441-1, Table 441-2 , or Table 441-3 , as applicable, shall be maintained from ungrounded conductors at the work location. Where the making of a ground is impractical, or the conditions resulting therefrom are more hazardous than working on the lines or equipment without grounding, the ground may be omitted by special permission of the designated person.

8. NESC Section 44, 445-A-3: The previously energized parts that are to be grounded shall be tested for voltage except where previously installed grounds are clearly in evidence. The employee shall keep every part of the body at the required distance by using insulating handles of proper length or other suitable devices.

The December 8, 2009 Show Cause Order also cites eleven probable violations of Commission Regulation 807 KAR 5:006, Section 24(1) which requires each jurisdictional utility to adopt and execute a safety program, including the establishment of a safety manual with written guidelines for safe working practices and procedures to be followed by utility workers. The alleged violations arise under the American Public Power Association: (APPA Safety Manual 13th Edition), which was adopted by the Kenergy Board of Directors on March 8, 2005. The eleven alleged violations cited in the Commission's December 8, 2009 Order are as follows:

1. 607(a): All conductors and equipment shall be treated as energized until tested and grounded.
2. 615(a): All previously energized conductors shall be considered energized until tested and grounded.
3. 601(j): Electrical equipment and lines shall always be considered "live" unless they are positively known to be dead by testing and grounding. Before starting work, preliminary inspection or testing shall be made to determine what conditions exist. Care shall be exercised to handle neutral wire with the same caution that is used with energized wires.
4. 626(2): All switches, disconnectors, jumpers, taps, and other means

through which sources of electric energy may be supplied to the particular lines and equipment to be opened. Such means shall be rendered inoperable, unless its design does not so permit, and tagged to indicate that employees are at work.

5. 626(5): After the above steps have been taken, the equipment to be worked shall be tested to ensure it is de-energized.
6. 626(6): Protective grounds shall be installed (refer to OSHA standard 29 CFR 1910.269(n)).
7. 312(k): Employees shall not belt to an adjacent pole or structure. When working from an aerial lift, a body belt or harness shall be worn and a lanyard attached to the boom, basket or other acceptable attachment point.
8. 601(e): No employee may approach or take any conductive object without an insulating handle closer to exposed energized parts than the minimum approach distance set forth in Table 6.1 through 6.5 unless the employee is insulated from the energized part or the energized part is insulated from the employee and any other conductive object at a different potential, or the employee is insulated from any other conductive object, as during live-line bare-hand work. Refer to paragraph 602, 606, 609, and 906 for related information. Refer to OSHA Standard 29 CFR 1910.137. Table 6.1 Phase to ground- 7.2 kW-2'2" Clearance.
9. 601(L): Employees must evaluate existing conditions that relate to the safety of the work to be performed before work is started.
10. 1405(a): The employee in charge shall conduct a job briefing with the employees involved before the start of each job. The job briefing will at least cover the following subjects: hazards associated with the job, work procedures involved, special precautions, energy source controls, and personal protective equipment requirements.
11. Kenergy's Amendments to the APPA Safety Manual: C-1-c: When working on lines or equipment energized above 600 volts from an aerial device, rubber gloves and sleeves shall be worn from cradle to cradle.

On December 23, 2009, Kenergy filed a response to the Commission's December 8, 2009 Order. In its response, Kenergy denied that it was in violation of either KRS 278.042 or 807 KAR 5:006, Section 24(1), because, it claimed, the incident

was the result of human error and not the result of any action or inaction on the part of Kenergy.

Pursuant to a request by Kenergy, the formal administrative hearing which the Commission scheduled in this matter for January 27, 2010, was cancelled and an informal conference ("IC") was held that day at the Commission's Frankfort offices. Representatives of Kenergy, including Kenergy's Chief Executive Officer and legal counsel, were in attendance, as were Commission Staff.

During the informal conference, representatives of Kenergy stated that, since the February 27, 2009 incident, the utility has implemented a number of new self-directed remedial measures since the February 27, 2009 incident in which Mr. Hunt was injured. These measures include undergoing a safety management system assessment by the National Safety Council<sup>1</sup> and the subsequent hiring of a full-time risk manager for Kenergy who will be responsible for overseeing Kenergy's safety program.

### **SETTLEMENT AGREEMENT**

As a result of discussions held during the informal conference, Kenergy and the Commission Staff submit the following settlement agreement for the Commission's consideration in rendering its decision in this proceeding:

1. Kenergy agrees that the Commission Staff's Electric Utility Personal Injury Accident Report, Appendix A to the Commission's December 8, 2009 Order in this matter, accurately describes and sets forth the material facts and circumstances surrounding the February 27, 2009 incident.
2. Kenergy agrees to pay a civil penalty in the amount of SIX THOUSAND FIVE HUNDRED DOLLARS (\$6,500) in full settlement of this proceeding.

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<sup>1</sup> A copy of the assessment report was attached to Kenergy's Response as Exhibit C to the Affidavit of Gerald Ford, Vice President of Operations.

3. The scope of this proceeding is limited by the Commission's December 8, 2009 Show Cause Order on whether Kenergy should be assessed penalties under KRS 278.990 for a willful violation of the NESC rules as made applicable under KRS 278.042, and the adequacy, safety, and reasonableness of its practices related to the construction, installation and repair of electric facilities and whether such practices require revision. Neither the payment of the civil penalty, nor any other agreement contained in this Settlement Agreement, shall be construed as an admission by Kenergy of any liability in any legal proceeding or lawsuit arising out of the facts set forth in the Electric Utility Personal Injury Accident Report or the Electric Utility Inspection Report, nor shall the Commission's acceptance of this Settlement Agreement be construed as a finding of a willful violation of any Commission regulation or NESC rule.

4. Beginning with the first full calendar month following the date of entry of the Order approving this Settlement Agreement, each month Kenergy shall perform one safety audit of each Kenergy construction crew working in the vicinity of energized Kenergy facilities. Kenergy shall document each safety audit in writing, using the standardized checklist developed by Kenergy for such purpose, a copy of which is attached as an Appendix hereto. For a period of twelve (12) months following the institution of the monthly safety audits described in this paragraph, on or before the tenth (10<sup>th</sup>) day of each following month, Kenergy shall file with the Commission a copy of all safety audit checklists completed during the prior month, along with a brief summary report indicating any safety violations identified during the safety audits and any safety measures that Kenergy has undertaken to correct those violations.

5. Following the twelfth (12<sup>th</sup>) monthly safety audit pursuant to paragraph 4 above, Kenergy may revise its Kenergy construction crew safety audit schedule to perform one safety audit of each Kenergy construction crew working in the vicinity of energized Kenergy facilities every three (3) months.

6. Kenergy shall maintain all safety audit checklists for a period of at least two (2) years and shall provide the safety audit checklists to Commission inspectors upon request and during the inspectors' periodic inspections.

7. Kenergy shall ensure that all Kenergy construction crews working in the vicinity of energized Kenergy facilities make written documentation of each daily job briefing. Kenergy shall not file copies of daily job briefing documentation with the Commission unless the Commission requires Kenergy to do so in a subsequent Order. Filings may be required by Order of the Commission during the period of time that Kenergy is required to file safety audit checklists under paragraph 4 above. Thereafter, the written documentation shall be maintained and provided upon request under the same terms as applicable to safety audit checklists under paragraph 6 above.

8. In the event that the Commission does not accept this Settlement Agreement in its entirety, Kenergy and Commission Staff reserve their rights to withdraw from it and require that a hearing be held on any and all issues involved and that none of the provisions contained within this Settlement Agreement shall be binding upon the parties, used as an admission by Kenergy of any liability in any legal proceeding, administrative proceeding or lawsuit arising out of the facts set forth in the Accident Report and the Inspection Report or otherwise used as an admission by either party.

9. This Settlement Agreement is for use in Commission Case No. 2009-00430, and no party to this matter shall be bound by any part of this Settlement Agreement in any other proceeding, except that this Settlement Agreement may be used in any proceedings by the Commission to enforce the terms of this Settlement Agreement or to conduct a further investigation of Kenergy's service. Kenergy shall not be precluded or estopped from raising any issue, claim or defense therein by reason of the execution of this Settlement Agreement.

10. Kenergy and Commission Staff agree that this Settlement Agreement is reasonable, is in the public interest, and should be adopted in its entirety by the Commission. If adopted by the Commission, Kenergy agrees to waive its right to a hearing and will not file any petition for rehearing or seek judicial appeal.

**KENERGY CORP**

By: (print name) SANFORD NOVICK  
By: (sign name) *Sanford Novick*  
Title: CEO  
Date: 7/23/10

**STAFF OF THE KENTUCKY PUBLIC SERVICE COMMISSION**

By: (print name) Richard W. Bertelson, III  
By: (sign name) *R. W. Bertelson III*  
Title: Staff Attorney  
Date: 8-11-2010

# KENERGY

## CREW WORK PROCEDURES AND SAFETY OBSERVATION CHECKLIST

(Kenergy Construction Crew)

DATE \_\_\_\_\_ CREW LEADER \_\_\_\_\_

SAFETY AUDIT PERFORMED BY: \_\_\_\_\_ CREW MEMBERS \_\_\_\_\_

WO NUMBER \_\_\_\_\_

VEHICLES \_\_\_\_\_

DESCRIPTION	USED PROPERLY	NOT USED PROPERLY	N/A	REMARKS
1. Tailgate Discussion				
2. Wheel Chocks				
3. Personal Protective Equipment				
a. Hard Hat				
b. Eye/Face Protection				
c. Hearing Protection				
d. Hand Protection				
4. Traffic Control Devices				
a. Cones				
b. Signs				
c. Flagman With Proper Equipment				
5. Vehicle Grounds				
6. Personal Grounds				
7. Rubber Gloves and/or Sleeves				
8. Cover-up Material				
9. Fall Protection				
a. Climbing Belt and Safety Strap				
b. Harness (full body)				
c. Lanyards				
d. Ladders Secured				
10. Proper Equipment Use and Location				
11. Trench/Shoring				

COMMENTS \_\_\_\_\_

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Sanford Novick  
President & CEO  
Kenergy Corp.  
P. O. Box 18  
Henderson, KY 42419